IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FOURTH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No. 17162 of 2000

Between:

Vujjina Subba Rao

..... PETITIONER

AND

Labour Court, Rep. by its Presiding Officer
Guntur and 5 others

.....RESPONDENTS

ORDER:

This writ petition is filed questioning the award made in I.D.No.305 of 1990, dated 04.01.2000, on the file of the Labour Court, Guntur, wherein the application filed under Section 2-A (2) of the Industrial Disputes Act, 1947 (for short 'the Act') by the petitioner was rejected in toto and no relief was granted.

It is the contention of the petitioner that he was appointed as a Mechanical Supervisor with the 2nd respondent society. However, his services were terminated with effect from 30.04.1973 without following the procedure as available under law. Therefore, he made a representation to the 2nd respondent. However, the 2nd respondent after having realized that the order dated 30.04.1973 is illegal, reinstated the petitioner into service on 30.04.1974. But the petitioner was not permitted to join duty. Under those circumstances, the petitioner filed M.P.No.19/79 under Section 33-C(2) of the Act before the Labour Court seeking wages for the period he was kept out of employment since it must be deemed that the petitioner was in service continuously in view of the order dated 30.04.1974. However, the same was dismissed on 17.03.1981, holding that the petitioner has not challenged the termination order, therefore, he is not entitled for any relief as sought for. However, that on 28.02.1983, he raised a dispute and the same was referred to the Government, but the Government did not refer the matter to the Labour Court for adjudication. Therefore, he has filed an application under Section 2-A(2) of the Act before the Labour Court in the year 1990 and the same was taken up on file. The Labour Court, without properly appreciating the facts and circumstances of the case, dismissed the application on the ground that it was more than 17 years since the date of his termination and there was a delay in raising the dispute and it has become stale, apart from the fact that the said society-rice mill is not working at present and was closed down. The petitioner is further aware of the fact of closing down the mill and appointing a liquidator. There was no delay caused in approaching the Labour Court and filing petition under Section 2-A(2) of the Act, therefore, the Labour Court ought not to have dismissed the application filed by the

petitioner, and the same is arbitrary and illegal.

The 4th respondent filed a detailed counter affidavit denying the allegations made by the petitioner and stated that no relief can be granted as sought for by the petitioner. The learned counsel for the respondents strenuously contended that there was a delay of 17 years in approaching the Labour Court and filing claim petition. Even otherwise, on failure of conciliation, the matter was referred to the Government and the Government after considering the case of the petitioner, rejected the case of the petitioner for referring the matter to the Industrial Tribunal for adjudication. Therefore, the claim itself is not maintainable and the award passed by the Labour Court is just and proper and does not call for interference of this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and also perused the award passed by the Labour Court and other material made available on record.

At the outset, I am of the opinion that the petitioner's claim is speculative and imaginary. The services of the petitioner were terminated long back on 30.04.1973. He did not raise any dispute thereafter, except filing M.P.No.19/79 before the Labour Court under Section 33-C(2) of the Act, assuming for himself that he has been reinstated into service on 30.04.1974 by the management since it has realized that the termination orders dated 30.04.1973 are illegal. In fact, there is no such letter of reinstatement filed either before the Labour Court or before this Court. However, the petitioner claims that he raised conciliation proceedings, which ended in failure and on 28.02.1983 a failure report was sent to the Government, but the Government did not refer the matter for adjudication to the Industrial Tribunal.

Before seeking any orders against the Government to refer the matter to the Industrial Tribunal, the petitioner having waited for more than 7 years, has raised the dispute under Section 2-A(2) of the Act before the Industrial Tribunal directly. In those circumstances, the fact that the Government had not referred the matter to the Industrial Tribunal for adjudication, must be construed that the matter was refused by the Government for being referred to the Industrial Tribunal for adjudication. In the teeth of this situation, it was not proper for the petitioner to file an application under Section 2-A(2) of the Act which is a fresh effort made to question the purported termination order dated 30.04.1973 i.e. after more than 17 years. In fact, the petitioner has not shown as to what is his status after 30.04.1973, whether he was

retrenched from service or whether he has been reinstated into service thereafter. Further the M.P.No.19/79 filed under Section 33-C(2) was already dismissed. The facts would speak for themselves that the petitioner was not diligent in pursuing all the remedies properly and ultimately he raised the dispute in I.D.No.305/1990 before the Labour Court at Guntur after more than 17 years. Further, the rice mill itself was closed and a liquidator was appointed long ago. The liquidator was not made a party to the proceedings.

For all the above reasons, I am of the opinion that the Labour Court has not committed any error in coming to a conclusion that the petitioner is not entitled for any relief. Therefore, the writ petition is liable to be dismissed, and accordingly, dismissed. No order as to costs.

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C.V.RAMULU,J

Dated: 24.08.2005

Dsr